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Gandhi's Prophecy: Corporate Violence and A Mindful Law for Bhopal

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Over thirty years have passed since the Bhopal chemical disaster began, and in that time scholars of corporate social responsibility (CSR) have discussed and debated several frameworks for improving corporate response to social and environmental problems. However, CSR discourse rarely delves into the fundamental architecture of legal thought that often buttresses corporate dominance in the global economy. Moreover, CSR discourse does little to challenge the ontological and epistemological assumptions that form the foundation for modern economics and the role of corporations in the world.

I explore methods of transforming CSR by employing the thought of Mohandas Gandhi. I pay particular attention to Gandhi's critique of industrialization and principle of *swadeshi* (self-sufficiency) to address the tension between multinational corporations and local communities worldwide. Gandhi's principle of *swadeshi* especially is salient in light of Bhopal, where local survivors have struggled to raise awareness of the persistent degradation of their environment. I discuss the current state of CSR, Bhopal's ongoing relevance to modern industrialization, and a potential future for CSR that incorporates *swadeshi* for local populations.

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I had always heard the merchants say that truth was not possible in business. I did not think so then, nor do I now. Even today there are merchant friends who contend that truth is inconsistent with business. Business, they say, is a very practical affair, and truth a matter of religion; and they argue that practical affairs are one thing, while religion is quite another. Pure truth, they hold, is out of the question in business, one can speak it only so far as is suitable. I strongly contested the position in my speech and awakened the merchants to a sense of their duty¹

–M.K. Gandhi

It was he who had prophesied in his letter to me that I was leading a movement which was destined to bring a message of hope to the downtrodden people of the earth.²

–M.K. Gandhi, speaking of Leo Tolstoy

I. INTRODUCTION

The night of December 3, 1984 burns inside of Ganga Bai's memory. That night, she awoke from her sleep to find her eyes burning and people in the street shouting "Run!" "Gas!" "Death!"³ She placed her two-year old daughter into her hands and ran out of their house.⁴ After several miles, she stopped running, thinking that she was far enough from home for her daughter to be safe.⁵ However, when Ganga looked down, she saw her daughter's dead face staring back at her and she fainted.⁶

Zaheer Ahmed and Shezad Khan also were in Bhopal that night. Although there was no visible perpetrator, a deadly intruder had grabbed the throats of their family members as they gasped for air. Zaheer worked as a night watchman and returned home from work in the morning.⁷ He found his door unlocked and the dead bodies of his wife and two sons inside.⁸ Like Ganga, Shezad was asleep that night and awoke with searing eyes.⁹ He ran out of the house and climbed into a passing vehicle that transported him

¹ MOHANDAS K. GANDHI, *GANDHI, AN AUTOBIOGRAPHY*, Volumes I and II (Ahmedabad, India, Navajivan Press 1927, 1929), <http://www.humanistictexts.org/gandhi.htm>.

² Thomas Weber, *Tolstoy and Gandhi's Law of Love*, SGI QUARTERLY, (Jan. 2010), <http://www.sgiquarterly.org/feature2010jan-9.html>.

³ PAUL SHRIVASTAVA, *BHOPAL: ANATOMY OF A CRISIS I* (Ballinger Pub. Co., 2nd ed. 1987).

⁴ *Id.*

⁵ *Id.*

⁶ *Id.*

⁷ *Id.*

⁸ *Id.*

⁹ *BHOPAL: A PEOPLE'S VIEW OF DEATH, THEIR RIGHT TO KNOW AND LIVE: A RECONSTRUCTION OF THE GAS TRAGEDY, ITS BACKGROUND, AND AFTERMATH, FOR PRESS REPORTS AND LOCAL INFORMATION 11* (Eklavya 1985).

miles away.¹⁰ Meanwhile, his family remained in the house and later joined the hundreds of corpses building up over the course of the night.¹¹

The next morning, there were thousands of corpses piled in the street. Press reports confirmed that a storage tank at a nearby Union Carbide pesticide plant had exploded, sending tons of poisonous gas sprawling through Bhopal. An estimated 3,000 people died in the first days of the aftermath, and some observers claim that the plant site has never been adequately remediated while the death toll has risen to approximately 20,000.¹²

Perhaps as much as any other single event, the Bhopal chemical disaster has attracted the attention of the press, activists, scholars, and the public. Critics of modernization use Bhopal as an example of how developed nations benefit at the expense of developing countries, and how modern corporations create risky cost-cutting strategies and methods of evading responsibility for accidents.¹³ Similarly, a century ago, Mohandas Gandhi developed his own critique of the emerging global political economy; however, Gandhi's ideas have been largely neglected by scholars of industrialization. As a man who dedicated his adult life to implementing non-violence and love into the modern world, Gandhi was sensitive to the exploitative qualities of modern economic systems. His critique of the British notion of civilization reached its apogee in *Hind Swaraj*, a 1909 treatise in which he eloquently explained his view of modern "civilization" and its discontents. In *Hind Swaraj*, Gandhi described the oppression he observed in his time and revealed his prophecies of future devastation if the world continues down the path of industrial "progress" without dissecting its basic assumptions.¹⁴

In *Hind Swaraj*, Gandhi described the dominant notion of "progress" as one in which the seeds of ongoing violence and resource extraction would lead to perpetual disaster and injustice.¹⁵ Similarly to Gandhi, several contemporary scholars have criticized the way that corporations and governments preserve inequalities that become magnified during disasters.¹⁶

¹⁰ *Id.*

¹¹ *Id.*

¹² BHOPAL: THE SEARCH FOR JUSTICE (National Film Board of Canada 2004). Some of the estimated 20,000 death toll may be due to possible lingering effects experienced at later points in time. *Id.*; AMNESTY INTERNATIONAL, CLOUDS OF INJUSTICE: BHOPAL DISASTER 20 YEARS ON 12, 61 (2004). At the time of the initial disaster, the plant was owned by Union Carbide India Limited, a subsidiary of Union Carbide Corporation. *Id.* at 4–5; Shrivastava, *supra* note 3, at 3.

¹³ See generally JAMIE CASSELS, THE UNCERTAIN PROMISE OF LAW: LESSONS FROM BHOPAL (University of Toronto Press 1993); JAMES MANOR, POWER, POVERTY AND POISON: DISASTER AND RESPONSE IN AN INDIAN CITY (Sage Publications 1993).

¹⁴ See generally MAHATAMA GANDHI & ANTHONY PAREL, HIND SWARAJ AND OTHER WRITINGS 170 (Cambridge University Press 1997).

¹⁵ See generally *id.*

¹⁶ See generally UPENDRA BAXI, INCONVENIENT FORUM AND CONVENIENT CATASTROPHE: THE BHOPAL CASE (N.M. Tripathi 1986) [hereinafter BAXI, INCONVENIENT FORUM]; UPENDRA BAXI, MASS DISASTERS AND MULTI-NATIONAL LIABILITY: THE BHOPAL CASE (N.M. Tripathi 1986) [hereinafter

Most notably, socio-legal scholar, Upendra Baxi argued that economic reforms tend to privilege the rights of privileged groups over the needs of the poor, and therefore, social disasters are “the consequences of wrong policy decisions.”¹⁷ In Baxi’s words, “It is characteristic of classical and contemporary western liberal thought to ignore the entire problematic of basic human needs.”¹⁸ In other words, the basis of modern economic thought preserves inequality and fails to prevent corporate violence.¹⁹

Baxi also advocated for eradicating the culture of poverty that deprives the poor of legitimate opportunities.²⁰ According to Baxi, the culture of poverty is “transmitted across generations” and is defined by “powerlessness, apathy, disorganization, alienation, and anomie.”²¹ Baxi attributed the culture of poverty partly to paternalism from elite organizations that preserve power imbalances, prevent genuine self-sufficiency for the masses, and create a sense of helplessness among the public.²²

Baxi’s arguments suggest that economic growth that could be used to end poverty is offset by increases in economic inequality.²³ As a result, the current emphasis on economic growth as an end in itself is ineffective at ending poverty; in our growth-obsessed system, resources overwhelmingly are used for purposes antithetical to ending poverty.²⁴ Therefore, Baxi referenced Gandhi’s commitment to addressing poverty and advocated for a more sociological understanding of social disaster as a method for fighting poverty.²⁵

Similar to Baxi, Jasanoff presented organizational characteristics of modern corporations that cause industrial disaster and subsequently preserve social inequality. Jasanoff argued that modern industrial giants often claim that disaster can be prevented purely through scientific advancements; however, industrial disasters are the result of complex sociological problems

BAXI, MASS DISASTERS]; UPENDRA BAXI, VALIANT VICTIMS AND LETHAL LITIGATION: THE BHOPAL CASE (N.M. Tripathi 1990) [hereinafter BAXI, VALIANT VICTIMS].

¹⁷ UPENDRA BAXI, LAW AND POVERTY: CRITICAL ESSAYS vii (N.M. Tripathi 1988) [hereinafter BAXI, LAW AND POVERTY]; see also UPENDRA BAXI, MAMBRINO’S HELMET: HUMAN RIGHTS FOR A CHANGING WORLD 5 (Har-Anand Publications 1994) [hereinafter BAXI, MAMBRINO’S HELMET].

¹⁸ Upendra Baxi, *From Human Rights to the Right to be Human: Some Heresies*, in RETHINKING HUMAN RIGHTS: CHALLENGES FOR THEORY AND ACTION 186 (Smitu Kothari & Harsh Sethi, 1989).

¹⁹ See generally BAXI, INCONVENIENT FORUM, *supra* note 16; BAXI, MASS DISASTERS, *supra* note 16; BAXI, LAW AND POVERTY, *supra* note 17; BAXI, VALIANT VICTIMS, *supra* note 16.

²⁰ BAXI, LAW AND POVERTY, *supra* note 17, at ii-x.

²¹ *Id.* at vii.

²² *Id.* at viii. See also BAXI, INCONVENIENT FORUM, *supra* note 16; BAXI, MASS DISASTERS, *supra* note 16; BAXI, VALIANT VICTIMS, *supra* note 16.

²³ BAXI, MAMBRINO’S HELMET, *supra* note 17, at 5; see generally BAXI, LAW AND POVERTY, *supra* note 17.

BAXI, MAMBRINO’S HELMET, *supra* note 17, at 5; see generally BAXI, LAW AND POVERTY, *supra* note 17.

²⁵ BAXI, LAW AND POVERTY, *supra* note 17, at ix; BAXI, MAMBRINO’S HELMET, *supra* note 17, at 5; see also BAXI, INCONVENIENT FORUM, *supra* note 16; BAXI, MASS DISASTERS, *supra* note 16; BAXI, VALIANT VICTIMS, *supra* note 16.

that point to a need for organizational change.²⁶ Evidence from the Bhopal disaster indicates that Jasanoff's assertion has merit. For instance, Kamal K. Pareek, a maintenance superintendent and chemical engineer at Union Carbide's Bhopal plant, tried to communicate the plant's safety hazards to upper management and experienced firm resistance.²⁷ Pareek reported that several managers refused to listen to his concerns because of the costs and problems associated with addressing them.²⁸ In his decision to resign in 1983, Pareek reported that the major reason for his resignation was a deterioration of safety standards at the plant.²⁹ In his exit interview, Parekh forewarned his managers of the high probability of catastrophic accidents if the safety standards did not improve.³⁰ The following year, Mr. Pareek's predictions became a reality when the Bhopal plant exploded.³¹

To prevent future disasters, Jasanoff advocated for new organizational structures that incentivize precautionary behavior by corporate executives.³² Jasanoff also emphasized a need to alter value systems and highlighted the need to replace the contemporary high regard for individualism and consumerism with concern for people and the environment.³³ Jasanoff's call for an alternative value system challenges the view of social disasters as merely "accidents" and natural resources as purely raw material for the production process.³⁴

Jasanoff's call to a new value system could suggest a need for revolutionary changes, and Gandhi's thought contains doctrines and principles that already have been used to peacefully revolutionize societies. In the world of business ethics, however, there are formidable challenges and perhaps incompatible differences between Gandhi's core business-related principles and the basic values that have animated the modern corporation up to the writing of this Article. When corporate directors' legal duty of loyalty is to the corporation itself,³⁵ how can the current laws of

²⁶ Sheila Jasanoff, *Introduction*, in *LEARNING FROM DISASTER: RISK MANAGEMENT AFTER BHOPAL 6* (University of Pennsylvania Press 1994).

²⁷ *Seconds From Disaster: Bhopal Nightmare* (National Geographic Channel broadcast, Part I, 2011) (quoting Kamal K. Pareek, Chemical Engineer, Maintenance Superintendent 1971-1983).

²⁸ *Id.*

²⁹ *Id.*

³⁰ *Id.*

³¹ *Id.*

³² Jasanoff, *supra* note 26, at 6–13. Seven years after the Bhopal accident, Jasanoff visited India and interviewed various members of government and citizens from the private sector. She asked if "anything had fundamentally changed in India's approach to controlling hazardous technologies." She received various answers: some claimed that things had become worse as the level of pollution and poverty rose, while others argued that positive changes were made. The positive changes included spreading awareness, more networking, and more effective activists. Notably, most people did not mention legislation passed by the government as a positive change.

³³ Paul Shrivastava, *Societal Contradictions and Industrial Crises*, in *LEARNING FROM DISASTER: RISK MANAGEMENT AFTER BHOPAL 262* (Sheila Jasanoff ed., University of Pennsylvania Press 1994).

³⁴ *Id.* at 265–66.

³⁵ ABA COMM. ON CORPORATE LAWS, *CORPORATE DIRECTOR'S GUIDEBOOK* 21 (5th ed. 2007) (found within page 15 of the 6th ed. 2011).

corporate governance incorporate a broader system of ethics designed for the world's welfare? In the following section, I illustrate how Gandhi's thought provides a direction to an 'alternative value system' for which Jasanoff advocates.

II. CREATING AN ERA OF *SWADESHI*: CAN CORPORATE SOCIAL RESPONSIBILITY PROMOTE SELF-SUFFICIENCY?

A. *The Current State of CSR*

A major problem during and since the Bhopal disaster has been the marginalization of business discourse on ending corporate violence. Part of the reason for this 'hole' in business discourse is the lack of any serious challenge to the self-interested profit motive that serves as a moral trump in business practice.³⁶ The discourse largely has been embedded in the two dominant theories of modern corporate governance: shareholder and stakeholder theory.³⁷ Under the modern view of shareholder theory, often called the Berle-Means shareholder theory, corporate behavior is governed by the will of shareholders, or those who own the corporation.³⁸ In theory, owners of shares of a corporation have their interests exercised through corporate conduct.³⁹ The current expectation for corporations to express the will of shareholders originates in part from *Dodge v. Ford Motor Company* (1919), which states:

A business corporation is organized and carried on primarily for the profit of its stockholders [shareholders]. The powers of the directors are to be employed for that end. The discretion of directors is to be exercised in the choice of means to attain that end, and does not extend to a change in the end itself, to the reduction of profits, or to the non-distribution of

³⁶ Timothy L. Fort & Cindy A. Schipani, *The Role of the Corporation in Fostering Sustainable Peace*, 35 VAND. J. TRANSNAT'L L. 389, 426 (2002); see also Sarah Anderson & John Cavanagh, *Corporate Empires*, 17 MULTINAT'L MONITOR 12 (December 1992), available at www.multinationalmonitor.org/hyper/mm1296.08.html (quoted in KATE DAVIES, RISE OF U.S. ENVIRONMENTAL HEALTH MOVEMENT 211 n.1.)

³⁷ Fort & Schipani, *supra* note 36, at 426; see generally HUMAN RIGHTS OBLIGATIONS OF BUSINESS: BEYOND THE CORPORATE RESPONSIBILITY TO RESPECT? (Surya Deva & David Bilchitz eds., Cambridge University Press 2013).

³⁸ Tamara C. Belinfanti, Professor, N.Y. L. Sch., Shareholder Cultivation and the New Governance, Address at the Business and Society Section Panel, Emerging Approaches to Corporate Governance and Corporate Social Responsibility, at the Law & Society Association Annual Meeting (June 1, 2013); see generally GEORGE A. STEINER & JOHN F. STEINER, BUSINESS, GOVERNMENT, & SOCIETY: A MANAGERIAL PERSPECTIVE, (Random House 3d ed. 1980).

³⁹ Belinfanti, *supra* note 38; see generally *A Survey of International Corporate Responsibility*, 4 INT'L CORP. RESP. SERIES (Mohamed Dobashi, John Hooker & Peter Madsen eds., 2009); *Controversies in International Corporate Responsibility*, 3 (John Hooker, John F. Hulpke & Peter Madsen eds., 2007).

profits among shareholders in order to devote them to other purposes.⁴⁰

In practice, this privileging of the shareholder has been bypassed by the business judgment rule, which has limited the power of the court to judge the decisions of corporate executives.⁴¹ As a result, for disgruntled shareholders, there are limited legal means to challenge business decisions. Recently, some scholars have argued that the current legal thinking on this matter has allowed for reckless executive decision-making and has created strain between executives, shareholders, and other interested parties.⁴² Among them is Edward Freeman, who has argued for a “stakeholder theory” to replace the traditionally dominant shareholder theory.⁴³

In stakeholder theory, a corporation’s behavior is dictated by the will of stakeholders, who are any party with a concern or interest in the corporation’s decisions, including those affected by the corporation’s operations.⁴⁴ This theory assumes that the incorporation of stakeholder value systems into corporate decision-making inherently leads to more socially beneficial results.⁴⁵ The late scholar of business ethics, Thomas Dunfee, saw merit in this viewpoint. Dunfee argued that moral preferences are ‘embedded within markets’ and would give corporations incentives to consider the impact of its actions on stakeholders.⁴⁶

The problem with this assumption is that businesses are justified in ignoring stakeholders who do not exert their moral preferences on corporations. In practice, stakeholders can be ignored in corporate decision-making because they may be invisible to the corporate boardrooms. As a result, crucial stakeholders such as local communities or indigenous tribes have minimal impact on corporate governance when corporations are not aware of or do not engage with them. Therefore, relying on the moral compass of stakeholders is not enough to ensure ethical practices because many stakeholders are unaware of corporate activity and invisible to the executives at the heart of decision-making processes. The invisibility of many stakeholders’ moral preferences may explain why corporations are quick to pay fines or settle cases. In the short-term, if it is less expensive to pay a fine or settle a case than to proactively work to create awareness of

⁴⁰ *Dodge v. Ford Motor Co.*, 170 N.W. 668, 682 (Mich. 1919).

⁴¹ David Ronnegard & N. Craig Smith, *Shareholders vs. Stakeholders: How Liberal and Libertarian Political Philosophy Frames the Basic Debate in Business Ethics* 6 (INSEAD Faculty & Research, Working Paper No. 2011/132/ISIC, 2011).

⁴² See Fort & Schipani, *supra* note 36, at 426 (citing Thomas W. Dunfee, *Corporate Governance in a Market with Morality*, 62 LAW & CONTEMP. PROBS. 129, 139–43 (1999)).

⁴³ R. EDWARD FREEMAN, *STRATEGIC MANAGEMENT: A STAKEHOLDER APPROACH* (Pittman Publishing Co. 1984); see also Fort & Schipani, *supra* note 36, at 426 (citing Dunfee, *supra* note 42, at 139–43).

⁴⁴ FREEMAN, *supra* note 43.

⁴⁵ *Id.*

⁴⁶ Dunfee, *supra* note 42, at 139–43, cited in Fort & Schipani, *supra* note 36, at 426.

corporate activity and open dialogue with local peoples—and pay for preventive measures that arise from these dialogues—then corporations may be tempted to continually rely on after-the-fact payments regardless of who they may have harmed or how much destruction ensued.

Nonetheless, there have been attempts to eradicate the invisibility of disempowered stakeholders.⁴⁷ One attempt has been the creation of hybrid-B corporations, which represent a new corporate model in which for-profit corporations assume some characteristics of non-profit organizations.⁴⁸ Terms such as ‘benefit corporation,’ ‘low profit limited liability company,’ and ‘community interest company’ have been used in the U.S. and U.K. to describe the hybrid-B corporation.⁴⁹ These corporations operate with voluntary profit limitations, such as requirements for corporate profit to benefit affected communities and limits on dividends, for the sake of producing greater value to society.⁵⁰ However, the number of hybrid-B corporations remains low, and the ability of hybrid-B corporations to compete with pure for-profit corporations in the current for-profit-only business climate is yet to be determined.⁵¹

Other commentators argue for a return to a reformed shareholder theory.⁵² Because the relationship between executives and shareholders has been strained by shareholder dissatisfaction with executive decision-making, one option is to cultivate relationships between executives and shareholders.⁵³ In this approach, executives actively recruit potential shareholders with whom they would like to work and seek their investment in the corporation.⁵⁴ Although this approach may decrease tension between executives and shareholders in the long-run, it allows executives to ‘pick and choose’ their shareholders.⁵⁵ As a result, this approach presents the danger of corporations simply finding like-minded shareholders to serve as ‘yes-men’ for executive decisions, rather than shareholders being a source of diverse viewpoints that create incentive for executives to think beyond immediate profit and toward business practices of social value.⁵⁶

Currently, the dominance of corporate executive decision-making hardly has been challenged worldwide, and the economic dominance of

⁴⁷ Carol Liao, Professor, Univ. of Victoria Sch. of L., Emerging Hybrid Corporate Governance Models and the Social Economy, Address at the Business and Society Section Panel, Emerging Approaches to Corporate Governance and Corporate Social Responsibility, at the Law & Society Association Annual Meeting (June 1, 2013).

⁴⁸ *Id.*

⁴⁹ *Id.*

⁵⁰ *Id.*

⁵¹ *Id.*

⁵² Belinfanti, *supra* note 38.

⁵³ *Id.*

⁵⁴ *Id.*

⁵⁵ *Id.*

⁵⁶ *Id.*

corporations has become akin to an empire.⁵⁷ Similar to the modern corporation, the East India Company advanced its economic agenda while claiming that pursuing its interests advanced 'progress.'⁵⁸ Gandhi was aware of the Company's imperative to pursue self-gain in the name of broader social justifications,⁵⁹ and he developed his critique of modern industrialization to advance an alternative 'other-regarding' economics.⁶⁰ However, Gandhi's economic vision is not merely critique of the factory-based industrialization of the early twentieth century; rather, his vision applies broadly to all production and resource extraction processes. The next section explains Gandhi's view of industrialization, which forms the basis of his economic vision, and its broad relevance to today's world of corporate violence and governance.

B. Gandhi's Critique of Industrialization

Gandhi fearlessly challenged the ubiquitous belief in industrial 'progress' that dominated his time, and as a result, he often was misunderstood as being "anti-industrialization." However, his writings show a clear willingness to accept industrialization under certain circumstances. According to Gandhi, as long as industrialization was sensitive to its effect on social relations, there was nothing necessarily evil about industrialization.⁶¹ It was the manner in which modern capitalists industrialized India that made industrialization function as a mechanism for exploitation.⁶² Gandhi explained,

Machine-power can make a valuable contribution towards economic progress. But a few capitalists have employed machine-power regardless of the interests of the common man and that is why our condition has deteriorated today.⁶³

In Gandhi's view, capitalist industrialization solidified the dominant-subordinate relationship between Britain and its colonies. Therefore, to Gandhi, the industrialization of India reinforced both the British Empire's

⁵⁷ See generally LAURA NADER, *PLUNDER: WHEN THE RULE OF LAW IS ILLEGAL* (John Wiley & Sons 2008).

⁵⁸ Nehal A. Patel, *Mindful Justice: The Search for Gandhi's Sympathetic State After Bhopal*, 28 SOC. JUST. RES. 363, 377(2015), DOI 10.1007/s11211-015-0245-7.

⁵⁹ See generally Gandhi, *supra* note 14.

⁶⁰ *Id.* at 25–30.

⁶¹ *Id.* at 170.

⁶² See *id.*

⁶³ MOHANDAS K. GANDHI, 94 COLLECTED WORKS OF MAHATMA GANDHI 278 (Publ'ns Div. Gov't of India ed. 1999) available at <http://www.gandhiserve.org/e/cwmg/cwmg.htm> [hereinafter CWMG]; see also Gandhi, *supra* note 14, at 170.

self-image as the world's standard-bearer of "civilization" and the Empire's image of India as backwards and worthy of subordination.⁶⁴

According to Dasgupta, Gandhi challenged the Empire's claim that industrialization would create more employment in India. To Gandhi, industrialization would sap India of employment because of industry reliance on machinery.⁶⁵ In a society in which large numbers of people used handicrafts and manual labor as their source of work, Gandhi argued that machinery would devastate employment prospects.⁶⁶ He questioned "whether these machines will be such as would blow off a million men in a minute or they will be such as would turn waste lands into arable and fertile land."⁶⁷ He added,

And if legislation were in my hands, I would penalize the manufacture of [labour-saving]⁶⁸ machines and protect the industry which manufactures nice ploughs which can be handled by every man.⁶⁹

As Gandhi explained, machines added value to society only when they led to greater employment opportunities, not when they replaced human labor. The Empire instituted a British-style education that provided Indians with new skills that were compatible with an industrialized economy; however, Gandhi viewed the re-training of Indians for British industrial work as doing little to alter the fundamental social relations between dominant and subordinate groups.⁷⁰ Gandhi argued that the pursuit of a British education meant that Indians would simply learn skills that the oppressor needed its laborers to master.⁷¹ Under such conditions, the Empire would remain the supreme power, and Indian labor would continue to be exploited.

Alternatively, Gandhi believed that the function of education was to empower oneself and live independently.⁷² Therefore, a meaningful education would emphasize the people's local economy rather than privileging the imperatives of large-scale economic elites.⁷³ Gandhi stated:

The ancient aphorism 'Education is that which liberates' is as true today as it was before . . . Knowledge includes all

⁶⁴ See generally Patel, *supra* note 58.

⁶⁵ AJIT K. DASGUPTA, *GANDHI'S ECONOMIC THOUGHT* 72 (Routledge 1996).

⁶⁶ *Id.*

⁶⁷ 18 CWMG, *supra* note 63, at 390.

⁶⁸ *Id.*

⁶⁹ *Id.* (quoting Young India, 17-9-1919); see also Gandhi, *supra* note 14, at 165.

⁷⁰ Dasgupta, *supra* note 65, at 140-43.

⁷¹ *Id.*

⁷² *Id.* at 137; see also 90 CWMG, *supra* note 63, at 29-30.

⁷³ Dasgupta, *supra* note 65, at 137; see also 90 CWMG, *supra* note 63, at 29-30.

training useful for the service of mankind and liberation means freedom from all manner of servitude even in the present life.⁷⁴

Here, Gandhi argued that education had to be an exercise in developing independence, but the Empire's reliance on machines subjugated the common people. Since people could be replaced by machines to save on labor costs, common people lacked the leverage to withhold their manual and vocational skills if the Empire treated them unjustly. Moreover, by learning British-style education instead of manual labor, people were dependent on the Empire and its machines for basic needs such as clothing.⁷⁵ Therefore, manual labor and vocational education was a pathway to gaining independence from coercive rulers. By acquiring useful skills that lead to self-employment, people could liberate themselves from dependence on foreign goods and from the Empire's use of machines as a tool for exploitation.⁷⁶ Gandhi said of the common person:

He will lose nothing if he knows a proper use of tools, can saw a piece of board straight and build a wall that will not come down . . . [a child] who is thus equipped will never feel helpless in battling with the world and never be in want of employment.⁷⁷

By meeting practical needs through self-reliance, Gandhi envisioned a world full of empowered individuals serving the whole of humanity through their choice of labor.⁷⁸ However, in addition, Gandhi saw his practical economics as a spiritual economics, in which economic empowerment and political independence aided the individual's attainment of life's highest goal: enlightenment.⁷⁹ Gandhi chose *karma-yoga* (service to others) as his

⁷⁴ *Id.*; see also 90 CWMG, *supra* note 63, at 29–30.

⁷⁵ See Nehal A. Patel, *Mindful Use: Gandhi's Non-Possessive Property Theory*, 13 SEATTLE J. SOC. JUST. 289, 299 (2014) (discussing handlooms and machinery).

⁷⁶ Dasgupta, *supra* note 65, at 143.

⁷⁷ *Id.*; see also 15 CWMG, *supra* note 63, at 207.

⁷⁸ See generally SHANTI S. GUPTA, *THE ECONOMIC PHILOSOPHY OF MAHATMA GANDHI* (Ashok Publishing House 1968); AMRITANANDA DAS, *FOUNDATIONS OF GANDHIAN ECONOMICS*, ALLIED PUBLISHERS PRIVATE LIMITED (Bombay 1979); ROMESH DIWAN & MARK LUTZ, *ESSAYS IN GANDHIAN ECONOMICS*, INTERMEDIATE TECHNOLOGY DEVELOPMENT GROUP OF NORTH AMERICA (1987); RAM SWARUP, *GANDHIAN ECONOMICS: A SUPPORTING TECHNOLOGY*, THE APPROPRIATE TECHNOLOGY DEVELOPMENT ASSOCIATION (INDIA) (Lucknow 1977); MAHENDRA S. KANTHI, *GANDHIAN ECONOMIC THEORY: ORIGINS AND STRUCTURE* (Kingsley Publishing House 1988); MAHENDRA S. KANTHI & S.P. SINGH, *EVOLUTION OF HUMANISTIC ECONOMIC THOUGHT: THE PSYCHO-PHILOSOPHICAL BASIS OF GANDHIAN ECONOMIC DOCTRINE* (Mohak Prakashana 1988).

⁷⁹ Moksha and nirvana commonly are translated as 'liberation' and 'enlightenment', respectively. Our concern is not to delve into the intricacies of this subtle distinction. Rather, we call on the reader to note that the enlightened state is one which liberates human consciousness from suffering. Therefore, in Gandhi's world view, liberation and enlightenment are crucial not only in the search for self-realization, but also to achieve genuine independence and social freedoms. See generally Gupta, *supra* note 78; Das,

preferred method of seeking enlightenment.⁸⁰ In the *karma-yoga* tradition, the practice of living for everyone encourages a person to move beyond himself and into a direct awareness of the underlying unity of the universe.⁸¹ Therefore, *karma-yoga* is a method for attaining enlightenment, but it also serves a profound social function by promoting harmony and kindness toward others.⁸²

In Gandhi's 'practical-spiritual' view, all of life's activities—including economics—must be guided by the motivation to serve everyone.⁸³ Through vocational education and manual labor, a person could acquire skills to serve humanity and achieve economic empowerment, independence, and ultimately enlightenment.⁸⁴ In contrast, exploitative empires contained a fragile model of employment that was subservient to the empire's pure self-interest. Therefore, in Gandhi's thought, 'independent employment' is more effective in fulfilling life's highest goal than the employment model of the British Empire.

Along with his hopes for a 'practical-spiritual' economy, Gandhi also expressed concern that industrialization would rapidly embed itself into India's economy.⁸⁵ Because the Empire used its economy as a tool to preserve social inequality, industrialization's increasing embeddedness into Indian society would make it extremely difficult for oppressed groups to opt out of an exploitative economy.⁸⁶ Gandhi explained how industrialization maintained exploitation by saying:

The present use of machinery tends more and more to concentrate wealth in the hands of a few in total disregard of millions of men and women whose bread is snatched by it out of their mouths.⁸⁷ We want to make our villages free and self-sufficient and through them achieve our goal—liberty—and also protect it. I have no interest in the machine nor [do] I oppose it. If I can produce things myself, I become my master and so need no machinery.⁸⁸

supra note 78; Diwan & Lutz, *supra* note 78; Swarup, *supra* note 78; Kanthi, *supra* note 78; Kanthi & Singh, *supra* note 78.

⁸⁰ EKNATH EASWARAN, *THE BHAGAVAD GITA*, 36 (Nilgiri Press 1985); 90 CWMG, *supra* note 63, at 1.

⁸¹ Easwaran, *supra* note 80, at 36; 90 CWMG, *supra* note 63, at 1.

⁸² *See* 90 CWMG, *supra* note 63, at 1.

⁸³ *See generally* Gupta, *supra* note 78; Das, *supra* note 78; Diwan & Lutz, *supra* note 78; Swarup, *supra* note 78; Kanthi, *supra* note 78; Kanthi & Singh, *supra* note 78.

⁸⁴ Dasgupta, *supra* note 65, at 143; *See also* 15 CWMG, *supra* note 63, at 207.

⁸⁵ Dasgupta, *supra* note 65, at 143; *see also* Mahatma Gandhi, *Speech at Gurukul Anniversary*, in 15 CWMG, *supra* note 63, at 207.

⁸⁶ Dasgupta, *supra* note 65, at 143; *see also* Mahatma Gandhi, *Speech at Gurukul Anniversary*, in 15 CWMG, *supra* note 63, at 207.

⁸⁷ Gandhi, *supra* note 1, at 414; *see also* GANDHI & PAREL, *supra* note 14, at 168.

⁸⁸ Gandhi, *supra* note 1, at 104; *see also* GANDHI & PAREL, *supra* note 14, at 168.

Gandhi's emphasis on making one's own things makes Bhopal an ideal site for applying his objections to industrialization. First, rather than increasing economic independence through employment, Union Carbide's plant destroyed the lives of hundreds of thousands of Bhopal residents. Second, Union Carbide's presence in Bhopal is a continuation of the rapid industrialization that has been embedding itself into the Indian economy since the days of the British Empire.⁸⁹ This embeddedness creates a large-scale economy that allows big organizations to dominate production.⁹⁰ In the case of Bhopal, industrialization removed power from local people who cannot mass-produce pesticide; in an economy that privileged mass production, there was no opportunity for a person "making things herself" to compete with large-scale corporate production.⁹¹

Bhopal showed us that the problem of corporate violence goes beyond lack of governance and into the underlying ideologies of "progress" in the modern economy. Without a sustained attempt to understand the roots of corporate violence, a future Bhopal is not only likely but perhaps immanent.⁹² Therefore, it is imperative to not only revisit Gandhi's critiques of modern industrial processes, but to also revisit his principles that could abate corporate violence.

Gandhi perhaps is best known in the west for his development of nonviolent resistance, and one could view non-cooperation and CSR as inversely related: more effective CSR efforts could mean less non-cooperation campaigns among the victimized. Inversely, the less CSR, the more incentive for people to begin their own resistance movements. One instance that is ripe for non-cooperation is the current litigation between Monsanto and local farmers. Monsanto has created genetically modified seeds that it sells to local farmers.⁹³ Their agreement stipulates that the farmers "will not save and replant seeds produced from the seed they buy from" Monsanto.⁹⁴ Monsanto has sued local farmers claiming that the corporation owns a patent on the seeds and has won all nine such cases that have gone to trial.⁹⁵ Therefore, because the court has protected the corporation's patent rights over local farmers' protection of traditional practices, it is possible that farmers will resort to nonviolent non-cooperation to preserve local farming practices. This might involve a call for local consumers to purchase from farmers using locally grown seeds whenever such seeds are available. Such an approach would be analogous to Gandhi's

⁸⁹ Patel, *supra* note 58, at 377.

⁹⁰ *Id.*

⁹¹ *See generally id.*

⁹² *See generally* CHARLES PERROW, *THE NEXT CATASTROPHE: REDUCING OUR VULNERABILITIES TO NATURAL, INDUSTRIAL, AND TERRORIST DISASTERS* (Princeton University Press 2007).

⁹³ *Why Does Monsanto Sue Farmers Who Save Seeds?*, MONSANTO (August 13, 2015), <http://www.monsanto.com/newsviews/pages/why-does-monsanto-sue-farmers-who-save-seeds.aspx>.

⁹⁴ *Id.*

⁹⁵ *Id.*

call to boycott British goods and buy from local producers (or make one's own goods).

One of Gandhi's principles that applies to the tension between corporations and local producers is *swadeshi*, or "self-sufficiency." *Swadeshi* applies both to achieving sustainable mass employment and the potential for power to rest in the hands of local people.⁹⁶ The struggle of local farmers in the Monsanto example serves as an example of where *swadeshi* must be part of any serious conversation about CSR. If corporations have incentives to align their practices with local self-sufficiency, then such conflicts can be averted. However, if there are no financial consequences to degrading self-sufficiency in indigenous food systems, then conflicts can persist. In the following section, I focus on the question of whether self-sufficiency can be attained through corporate social responsibility (CSR). I focus on Gandhi's concept of *swadeshi* to address if and how CSR can be used to achieve empowerment and independence for local peoples.

C. Gandhi's Principle of Swadeshi and Why It Matters to CSR

Contemporary CSR discourse lacks critical and revolutionary alternatives that question deep ontological and existential assumptions in modern business practice. As a result, all major theories of CSR – whether grounded in shareholder theory or stakeholder theory – do little to tackle the question of what place a corporation has in an enlightened world. Instead of discussing the same standard issues in business ethics such as identifying relevant stakeholders, I ask the following questions: What would be the function of a corporation in an economy based on peace and happiness, and should corporate conduct result in more dependency on corporations or should corporate conduct produce self-reliance for local people? I argue that Gandhi's principle of *swadeshi* (self-sufficiency) is necessary to end corporate violence and dependency, and CSR discourse must account for the consequence of corporate conduct on *swadeshi*. In this section, I explain *swadeshi* as understood by Gandhi and attempt to advance a discourse that connects CSR and Gandhi's thought.

To understand the importance of *swadeshi*, we must situate the concept into Gandhi's economic thought.⁹⁷ Gandhi's view of economics uncompromisingly imbibes all economic decisions with ethical consideration.⁹⁸ To Gandhi, economics was not a field that could be

⁹⁶ See NARENDAR PANI, INCLUSIVE ECONOMICS: GANDHIAN METHOD AND CONTEMPORARY POLICY, 72–77 (Sage India 2002).

⁹⁷ *Id.* at 65–87.

⁹⁸ "True economics never militates against the highest ethical standard just as all true ethics, to be worth its name, must at the same time also be good economics." Mahatma Gandhi, 72 CWMG, *supra* note 63, at 258; see also Thomas Weber, *Gandhi's Moral Economics: The Sins of Wealth Without Work*

divorced from other aspects of life; such a severing was artificial and led to unproductive results.⁹⁹ In Gandhi's thought, a correct vision of economics accepts the economy's embeddedness within social, political, psychological, cultural, moral, and spiritual dimensions of human life.¹⁰⁰ Because of its connectedness to life as a whole, economics—when properly understood—must lead to a condition of wholeness for humans; in other words, to be useful and meaningful in human life, economic motive must enhance the total well-being of people.¹⁰¹ To Gandhi, current dominant economic thinking “takes no note of the human factor” and is “frankly selfish,” while ‘true economics’ is “necessarily unselfish.”¹⁰² To achieve such a true economics, all thought and conduct must lead a businessperson to be ‘true’ to all others, and to Gandhi, the highest Truth (*satya*) could be found through a spirit of love and service.¹⁰³

In American society, arguments about economic policy often contain a tension between compassion toward others and individual responsibility, but Gandhi's thought reconciles this tension. One American discourse in which this tension is palpable is the debate on the welfare system. Welfare arguments often fall into two groups: on the economic left, welfare is viewed as ethically justified redistribution, while on the economic right, welfare is seen as unjustified ‘handouts’ that encourage indolence and irresponsibility. Although these two views of welfare seem mutually exclusive, Gandhi saw no necessary incompatibility between these views. Instead, by emphasizing love as the path to Truth, Gandhi recognized both: (1) the need for the poor to work, and (2) the need for redistribution.¹⁰⁴

First, regarding work for the poor, Gandhi endorsed bread labor as an individual's method of simultaneously securing independence and lovingly contributing to society.¹⁰⁵ To Gandhi, being independent meant being in charge of dignifying oneself by offering one's own contribution to society; in contrast, to be dependent on government or wealthy private citizens was disempowering, degrading, and insulting to the poor.¹⁰⁶ In the context of Bhopal, both farmers' reliance on pesticide and survivors' reliance on

and Commerce Without Morality, in *THE CAMBRIDGE COMPANION TO GANDHI* 135, 139 (Judith M. Brown & Anthony Parel eds., Cambridge University Press 2011).

⁹⁹ Weber, *supra* note 98, at 139.

¹⁰⁰ See generally *id.*

¹⁰¹ See generally *id.*; Gupta, *supra* note 78; Das, *supra* note 78; Diwan & Lutz, *supra* note 78; Swarup, *supra* note 78; Kanthi, *supra* note 78; Kanthi & Singh, *supra* note 78.

¹⁰² Mahatma Gandhi, 53 CWMG, *supra* note 63, at 60; ‘Some posers,’ *Young India*, 16 July 1931, quoted in Weber, *supra* note 98, at 140.

¹⁰³ See generally Nehal A. Patel, *Why Lawyers Fear Love: Mohandas Gandhi's Significance to the Mindfulness in Law Movement*, 4 BRIT. J. AM. LEG. STUD. 251 (2015).

¹⁰⁴ Dasgupta, *supra* note 65, at 36; see also Gandhi's description of “Seven Social Sins,” which were: “wealth without work, pleasure without conscience, knowledge without character, science without humanity, commerce without morality, worship without sacrifice, politics without principles.” Mahatma Gandhi, 78. Notes, in 33 CWMG, *supra* note 63, at 135.

¹⁰⁵ Dasgupta, *supra* note 65, at 36.

¹⁰⁶ *Id.* at 36–43.

corporate action to remediate the contaminated plant site presents grave risks to people's self-sufficiency and self-reliance. Even in the early twentieth century, Gandhi noted the dangers of introducing poisonous chemicals to the biosphere, saying "asphyxiating gas and such other abominations have not advanced us by an inch"¹⁰⁷ and were "capable of killing masses of men at a time."¹⁰⁸ Gandhi observed that the introduction of 'asphyxiating gases' not only presented health risks but also introduced structural inequalities into societies by privileging large-scale corporate chemical production over time-tested local food production practices.

Second, regarding redistribution, Gandhi viewed society as having a duty to aid the individual's independence, and therefore, society's wealthiest people held their wealth in trust for the benefit of the world's poorest individuals.¹⁰⁹ Gandhi's view of material life can be summarized in his saying, "Earth provides enough to satisfy every man's need but not for every man's greed."¹¹⁰ To Gandhi, excess wealth, or wealth beyond need, existed only to benefit everyone.¹¹¹ Because the wealthy had far more than material needs demanded, Gandhi encouraged and expected the wealthy to use their excess wealth for society's benefit.¹¹²

In addition to his call to the wealthy, Gandhi believed government had the duty to aid the poor in their achievement of self-sufficiency by providing immediate economic opportunity when necessary.¹¹³ In these opportunities, the poor must own their own labor and have the power to determine their own wages and hours.¹¹⁴ For instance, Gandhi explained that the state could open establishments which were self-sustained by the labor of the recipients, such as a soup kitchen where the recipients received healthy meals in exchange for their labor to maintain a sanitary environment by cleaning the floors or washing the dishes.¹¹⁵ In addition, the state could create village food markets and dairies with affordable nutritious products.¹¹⁶ These markets would be self-sustaining, where the poor could give their labor or spend their earnings rather than receiving charity.¹¹⁷ As Gandhi explained:

¹⁰⁷ Mahatma Gandhi, 67 CWMG, *supra* note 63, at 184–85.

¹⁰⁸ *Id.* at 13.

¹⁰⁹ PANI, *supra* note 96, at 70–72.

¹¹⁰ Pyarelal, Mahatma Gandhi, Volume X, The Last Phase, Part II, 552 (Ahmedabad, India, Navajivan, 1958), *quoted in* Weber, *supra* note 98, at 140–41.

¹¹¹ See, e.g., Shyamkrishna Balganes, *Gandhi and Copyright Pragmatism*, 101 CALIF. L. REV. 1705, 1718 (2013) (providing an application of Gandhi's thought to copyright law, in which he quotes Gandhi: "You may say that trusteeship is a legal fiction. But if people meditate over it constantly and try to act up to it, then life on earth would be governed far more by love than it is at present. Absolute trusteeship is an abstraction like Euclid's definition of a point, and is equally unattainable.").

¹¹² BHIKHU PAREKH, GANDHI'S POLITICAL PHILOSOPHY: A CRITICAL EXAMINATION, 140–41 (Macmillan 1989).

¹¹³ See Dasgupta, *supra* note 65, at 34.

¹¹⁴ *Id.*

¹¹⁵ *Id.*

¹¹⁶ *Id.*

¹¹⁷ *Id.*

By their own efforts, by their own work these people should earn their livelihood and get their clothing, and they must not be taught to depend upon others for their necessities¹¹⁸ . . . [t]here is nothing to prevent them from becoming so except public disinclination to give the requisite skill and capital.¹¹⁹

The only exception was for those who were not able-bodied to contribute, and Gandhi placed much of the responsibility to feed and clothe the weakest and disabled squarely on the shoulders of the state.¹²⁰

Consequently, Gandhi's economics calls for a system in which all parties were expected to act through love (i.e., compassion for others) and serve others (i.e., through individual responsibility). To Gandhi, exploitation was not possible in a system where the individual was in control of her own labor.¹²¹ Therefore, in Gandhi's conception of the economy, opportunities did not come from jobs in which people worked in the interests of large companies; when corporations determine their own needs first—and only provide employment that fits *their* interests—they do not put the dignity and independence of the poor first. As a result, if the current standard of corporate self-interest continues, then the current economic model is doomed to fail at achieving the public goals of social justice and welfare. In Gandhi's thought, self-interest is lame without collective well-being, and all parties in a society are responsible for collective well-being because everyone—and all life—is intertwined in a collective destiny.¹²²

Gandhi's economics, therefore, combines the material and spiritual, the mundane with the sacred, and the economic with the ethical.¹²³ By expanding the notion of 'self' to include 'others,' Gandhi revolutionized how economic 'self-interest' is understood and applied. In its narrow conception, self-interest easily can be perverted to imply immediate gain for oneself, even at the expense of others and future generations. In contrast, Gandhi's conception of the self does not contain the atomistic quality that makes a purely separate individualized existence seem like a 'truth' in the

¹¹⁸ Mahatma Gandhi, 24 CWMG, *supra* note 63, at 30; Dasgupta, *supra* note 65, at 34.

¹¹⁹ Mahatma Gandhi, 68 CWMG, *supra* note 63, at 117; *see also* Weekly Letter, HARIJAN, Nov. 2, 1935; Dasgupta, *supra* note 65, at 34.

¹²⁰ Gandhi was open to the involvement of private organizations with the state. As long as the goals of *swadeshi* and caring for the incapacitated were met, Gandhi did not distinguish or show a preference between public and private sources. Gandhi explained, "the disabled should not be fed with thousands watching them. There should be a proper place, private and quiet, for feeding them." Mahatma Gandhi, 32 CWMG, *supra* note 63, at 232; *see also* Dasgupta, *supra* note 65, at 34.

¹²¹ "If I can produce things myself, I become my master and so need no machinery." Mahatma Gandhi, 78 CWMG, *supra* note 63, at 104.

¹²² *See* Parekh, *supra* note 112, at 134–35.

¹²³ *See generally* JUDITH M. BROWN & ANTHONY PAREL, THE CAMBRIDGE COMPANION TO GANDHI (Cambridge University Press 2011); Dasgupta, *supra* note 60; Gupta, *supra* note 78; Das, *supra* note 78; Diwan & Lutz, *supra* note 78; Swarup, *supra* note 78; Kanthi, *supra* note 78; Kanthi & Singh, *supra* note 78; Pani, *supra* note 96.

west. His sense of ‘the self’ originates largely from meditative traditions that view the self as part and parcel of a whole.¹²⁴ The Sanskrit axiom ‘*tat tvam asi*’ (“you are the other”) permeates Gandhi’s ontology and epistemology and their implications are profound: we are not simply separate but connected parts of a whole universe; we *are* the whole and the whole *is* us.

As a result, *swadeshi* for one person nourishes the whole, and actions that limit *swadeshi* degrade the whole. Within Gandhi’s thought, the current domination of corporate self-interest in economic decision-making can seem bizarre and inconceivable. The current state of affairs in Bhopal especially is bewildering, given that the scale of destruction caused by the disaster seems largely unaddressed after 30 years, and the *swadeshi* of the thousands of survivors seems no more enhanced by corporate presence in Bhopal. As Gandhi’s life suggests, the tragedy in Bhopal begs us to take *swadeshi* beyond theory and into the question of policy and implementation.

D. *The Next Step: Implementing Swadeshi*

One of the challenges for CSR initiatives is reducing the tension between contemporary industrial “progress” and *swadeshi* for local poor populations. Events such as Bhopal that devastate local populations do not empower through self-sufficiency; instead, Bhopal highlights the ways that big businesses externalize costs while poor populations suffer. The aftermath of the Bhopal disaster suggests that modern economic structures do not provide realistic opportunity for the disempowered to live in *swadeshi*, and corporations function no more on non-injury (*ahimsa*), self-rule (*swaraj*), or the welfare of all (*sarvodaya*) than the colonial companies of Gandhi’s time.

If the global economy is to promote greater good through economic growth, then corporate transnational activity must not sap local peoples of both resources and dignity.¹²⁵ In Bhopal, poor populations have been left with little option but to resist corporate imperatives and practice non-cooperation, and similarly situated populations have taken comparable action. For example, rural residents in other parts of India have mobilized to fight the effort of multi-national corporations and the Indian government to build a dam along the Narmada River.¹²⁶ Similarly, in the U.S., there are over 7,000 distinct community protests that are challenging the inclusion of

¹²⁴ BANSI PANDIT, *THE HINDU MIND: FUNDAMENTALS OF HINDU RELIGION AND PHILOSOPHY FOR ALL AGES* 306–07 (3d Ed., 1998); *see generally* HUSTON SMITH, *THE WORLD’S RELIGIONS* 12–81 (1991).

¹²⁵ SEEDS OF FREEDOM (The Gaia Foundation and the African Biodiversity Network 2012), available at <http://www.seedsoffreedom.info/>; *see also* <http://www.imdb.com/title/tt3540614/>.

¹²⁶ Paul Shrivastava, *Societal Contradictions and Industrial Crises*, in *LEARNING FROM DISASTER: RISK MANAGEMENT AFTER BHOPAL*, 265 (Sheila Jasanoff, ed., University of Pennsylvania Press 1994).

hazardous waste facilities into American neighborhoods.¹²⁷ Furthermore, in Madagascar, activists and indigenous people have struggled to protect rainforests by advocating for economic development that protects the natural environment and native peoples.¹²⁸ In Ecuador, local populations have taken action against Chevron Corporation for oil pollution,¹²⁹ and local groups in Nigeria have taken similar actions against Royal Dutch Shell Corporation.¹³⁰ Therefore, many local populations around the world face a form of industrial 'progress' that creates disaster for their ways of life and well-being and are resorting to similar non-cooperation tactics as survivors in Bhopal.

In Gandhi's thought, the problem with modern resource extraction and industrialization is that its processes exploit many for the benefit of others¹³¹ and make people dependent on industrialists behaving out of self-interest rather than out of the welfare of all (*sarvodaya*).¹³² According to Gandhi, when major social decisions are determined by the self-interest of the elite few, a system of dependency can develop in which the masses are reliant on elites to give them life's necessities.¹³³ To Gandhi, in its most chronic and dysfunctional form, the modern economic system undermines the needs of many in favor of the wants or pleasures of a few who mindlessly consume.¹³⁴

The principles that provide remedy to these problems are no less relevant today than they were during Gandhi's lifetime. The relevance of Gandhi's thought perhaps is most apparent when we examine basic needs such as clothing and food. Gandhi's insistence on *khaddar* (*khadi*, or homespun cloth) represented his attempt to sever India from its dependence on British goods, and most importantly, to end India's psychological subservience to perceived British superiority.¹³⁵ However, both today and in Gandhi's time, dominant economic frames influence many upwardly mobile youth in the developing world to desire the styles and fashions of the

¹²⁷ *Id.*

¹²⁸ *Id.*

¹²⁹ Tineke Lambooy, Aikaterini Argyrou and Mary Varner, *An Analysis and Practical Application of the Guiding Principles on Providing Remedies with Special Reference to Cases Studies Related to Oil Companies*, in HUMAN RIGHTS OBLIGATIONS OF BUSINESS: BEYOND THE CORPORATE RESPONSIBILITY TO RESPECT? 336–41 (Surya Deva & David Bilchitz eds., Cambridge University Press 2013).

¹³⁰ *Id.* at 341–48.

¹³¹ "The method of exploiting human labour under a system of indenture should be prohibited by law. Therefore, the main duty of Natal Indians in this matter is to start an agitation on a big scale, to adopt satyagraha, if necessary, and bring the system of indenture to an end." 9 CWMG, *supra* note 63, at 187.

¹³² "They hold whatever dominions they have for the sake of their commerce. Their army and their navy are intended to protect it." 10 CWMG, *supra* note 63, at 263.

¹³³ "If Hindus and Muslims in India were to unite and refuse to hold down their own people, the country would not remain dependent." 9 CWMG, *supra* note 63, at 294.

¹³⁴ See generally Nehal A. Patel, *Renounce and Enjoy: The Pursuit of Happiness Through Gandhi's Simple Living and High Thinking*, 13 SEATTLE J. SOC. JUST. 2 (2015).

¹³⁵ See Dasgupta, *supra* note 60, at 25–30; see generally Gupta, *supra* note 78; Das, *supra* note 78; Diwan & Lutz, *supra* note 78; Swarup, *supra* note 78; Kanthi, *supra* note 78; Kanthi & Singh, *supra* note 78.

developed world, and this desire reproduces the same cultural subservience to dominant economic interests as Gandhi described in his time.¹³⁶

Similar to Gandhi's *khaddar* movement, in the urban United States, there is a food independence movement that attempts to compete with large food industries. Will Allen has spear-headed educational campaigns to show urban dwellers how one inch of topsoil and seeds can turn an abandoned parking lot into a garden.¹³⁷ Allen's urban farming efforts have been one of the most notable alternatives at a time when many poor Americans live in areas described as "food deserts" where the most plentiful food often is processed by the fast food industry.¹³⁸ However, rather than hearing the message that *khaddar* or urban farming is a path to *swadeshi* and *swaraj*, today's youth in the developing world are bombarded with corporate-driven messages that give the same message brought by colonialists in past times: 'You need our products to prove you have arrived.' Many people such as Will Allen already are practicing forms of *swadeshi* in the effort to free disempowered populations from psychological and industrial dependency. If industry will benefit from *sarvodaya*, it must be re-shaped to maximize *swadeshi*, not to destroy it. Therefore, we must ask whether corporations can further *swadeshi*, or whether their very existence is antithetical to self-sufficiency.

1. Can Corporations Enhance Swadeshi?

Gandhi's preference for local economic production as a way to prevent excess consumption challenges modern patterns of urbanization and industrialization. His village ideal contains a world in which villages are not dominated by industrializing urban areas.¹³⁹ However, the perceived availability of industrial employment has contributed to the exodus of rural populations to urban centers.¹⁴⁰ This migration has created the risk that

¹³⁶ See Dasgupta, *supra* note 60, at 21–30.

¹³⁷ WILL ALLEN, *THE GOOD FOOD REVOLUTION* (Gotham Books 2006); see also Will Allen, *Conversations*, KCTS 9, <https://www.youtube.com/watch?v=eG95z8LoD6s>; GROWING POWER, INC., <http://www.growingpower.org>.

¹³⁸ See *Food Deserts*, UNITED STATES DEPARTMENT OF AGRICULTURE, <http://apps.ams.usda.gov/fooddeserts/fooddeserts.aspx>.

¹³⁹ See Patel, *supra* note 58, at 369, Figure 1 (2015).

¹⁴⁰ Rhoads Murphey, *Shanghai*, in 2 MEGA CITIES: THE METROPOLIS ERA 157, 162 (Mattei Dogan & John D. Kasarda eds., SAGE Publications 1988); Michael L. McNulty & Isaac Ayinde Adeleemo, *Lagos*, in 2 MEGA CITIES: THE METROPOLIS ERA 212, 213 (Mattei Dogan & John D. Kasarda eds., SAGE Publications 1988); Ahmed M. Khalifa & Mohamed M. Moheiddin, *Cairo*, in 2 MEGA CITIES: THE METROPOLIS ERA 235, 258 (Mattei Dogan & John D. Kasarda eds., SAGE Publications 1988); A.C. Minocha, *Changing Industrial Structure of Madhya Pradesh*, 14 MARGIN 46, (Oct. 1981), cited in Shrivastava, *supra* note 33, at 257; see generally T. Besley & R. Burgess, *Land Reform, Poverty Reduction and Growth: Evidence from India*, Q. J. OF ECON. (2000); John W. Gartrell, *Inequality Within Rural Communities of India*, 46 AM. SOC. REV. 768 (1981); C.R. Bijoy, *Injustice in God's Country: The Adivasi Uprising in Kerala*, HIMAL MAG., March 2003, available at <http://old.himalmag.com/component/content/article/1917-injustice-in-gods-country-the-adviasi-uprising-in-kerala.html>; see also 43 CWMG, *supra* note 63, at 161 ("Though I have lost faith in most

“housing and infrastructural services such as water supply, sewage, electricity, communications, and transportation”¹⁴¹ would not keep up with the swelling urban population. As Shrivastava states:

Industrialization and urbanization reinforce each other to create a vicious circle of increasing public risks. First, the gap between available and needed physical and social infrastructure increases. Second, more industries get established near densely populated areas to draw upon the pool of labor and the sparse infrastructure, in turn imposing still higher risks on neighboring populations.¹⁴²

Bhopal illustrated this ‘vicious circle’. Bhopal was the second fastest growing city in India between the 1950s and 1980s, and its overwhelming urbanization resulted in “nearly 30 percent of the city’s residents liv[ing] in slums near industrial plants” at the time Union Carbide’s plant exploded.¹⁴³ In a profit-driven capitalist system, this public health deterioration should not be surprising. From one reasonable view, the drive to capture cost-effective locations to build plants and find cheap urban labor can contribute to the subsequent squalor of the urban masses.¹⁴⁴

As a result, Gandhi found the modern capitalist economic system dangerous because its motor was competition without consideration of both material and non-material concerns for all (*sarvodaya*).¹⁴⁵ Modern economies put pressure on organizations to maximize self-gain because industrial societies largely “have organized their economies on some variant of the capitalist system, consisting of privately owned or state-owned enterprises.”¹⁴⁶ As a result, cost-cutting becomes a method of maximizing profit and includes “reducing manpower and cutting back non-production services, such as worker training, maintenance, safety, and environmental protection.”¹⁴⁷ As a result, externalities and hazards are likely to persist under such an economic regime.¹⁴⁸

Government institutions, as I have said before, savings banks are good so far as they go but unfortunately today their services are available only to the urban section of the community.”)

¹⁴¹ Shrivastava, *supra* note 33, at 257.

¹⁴² *Id.*

¹⁴³ *Id.*

¹⁴⁴ See generally Murphey, *supra* note 140, at 162; McNulty & Adelemo, *supra* note 140, at 213; Khalifa & Moheiddin, *supra* note 140, at 258; Minocha, *supra* note 140, cited by Shrivastava, *supra* note 33, at 257.

¹⁴⁵ Weber, *supra* note 98, at 143–150; Gandhi, *supra* note 14, at 68.

¹⁴⁶ Shrivastava, *supra* note 33, at 257.

¹⁴⁷ Murphey, *supra* note 140, at 162; McNulty & Adelemo, *supra* note 140, at 213; Khalifa & Moheiddin, *supra* note 140, at 258; Minocha, *supra* note 140, cited by Shrivastava, *supra* note 33, at 257.

¹⁴⁸ Murphey, *supra* note 140, at 162; McNulty & Adelemo, *supra* note 140, at 213; Khalifa & Moheiddin, *supra* note 140, at 258; Minocha, *supra* note 140, cited by Shrivastava, *supra* note 33, at 257.

Unfortunately, it often is far easier for large corporations to pollute and repeatedly pay small fees or settlements than it is to pro-actively prevent disasters from occurring.¹⁴⁹ Bhopal raises the question of what incentivizes corporations to act in socially responsible ways. However, even in India, where Gandhi lived most of the latter half of his life, his theory of political economy largely has been abandoned.¹⁵⁰ Shrivastava states:

An important cultural contradiction is apparent in the ambivalent Indian attitudes toward nature. There is a deep conflict between the respect for nature inherent in Hinduism, the dominant religion of India, and the nature-destroying and anthropocentric values inherent in modern secular India's aspirations of industrialization. Traditional religious values of *ahimsa* (non-violence among humans and nature), high respect for natural elements (trees, land, water, air), deification of animals, and the naturalism advocated by such mid-century leaders as Mohandas Gandhi and Rabindranath Tagore were formally rejected by the Indian Constitution, which made India a "secular" state. In contrast to these traditional values, anthropocentrism and its attendant consumerist orientation serve as the base for Indian economic plans for rapid industrialization in the Western mold¹⁵¹

Modern India largely has embraced western economic models, but Gandhi's thought contains several concepts that can alleviate the problems of modern economic practice such as corporate violence. Therefore, a serious engagement with his principles in CSR discourse is long overdue. In the following section, I discuss several concepts central to Gandhi's thought, most notably his Theory of Trusteeship that can aid corporate governance. Through Gandhi's Theory of Trusteeship, CSR discourse can shift into a discourse on corporate social justice (CSJ) and transform corporate violence into corporate nonviolence.

a. CSR in India: Shades of Gandhi's Influence

Over the past century, Gandhi's Theory of Trusteeship has influenced India's CSR discourse.¹⁵² In his theory, wealth is not indefinitely and

¹⁴⁹ See generally THE WORLD ACCORDING TO MONSANTO (Marie-Monique Robin 2008).

¹⁵⁰ "A basic economic contradiction lies in the industrially based strategy of economic development adopted by India and common to much of the Third World. Industrialization generates contradictory effects. It speedily improves the economic welfare of a segment of people, but simultaneously imposes new and unevaluated risks on their lives." Shrivastava, *supra* note 33, at 256.

¹⁵¹ Shrivastava, *supra* note 33, at 261.

¹⁵² Sethi understands Gandhi's theory of trusteeship as originating from *swaraj*, *ahimsa*, and equality; Ravindra Varma understands Gandhi's theory of trusteeship as emanating from *ahimsa* and

exclusively 'owned' by a private party; instead, the owner temporarily possesses wealth.¹⁵³ One text that deeply influenced Gandhi was the Isha Upanishad, which presents a path to joyful Enlightenment through renunciation rather than possession.¹⁵⁴ Therefore, to Gandhi, it was illogical to conceive of wealth as being one's "own," or to "own" exclusively, because such a possessive view contradicted the call to renunciation in the Isha Upanishad. Moreover, because material wealth inevitably ends at death, it was unproductive to be preoccupied solely with self-interested ownership.¹⁵⁵ In other words, to Gandhi, to own exclusively was to own at the expense of others¹⁵⁶ because the experience of Enlightenment (*moksha* or *nirvana*) reveals a reality constituted by collective connectedness.¹⁵⁷ Therefore, to Gandhi, it was more enlightened to view one's wealth as being held in trust for everyone, and that one's actions with that wealth – if governed by enlightened principles – would be only out of the well-being of all (*sarvodaya*).¹⁵⁸

With his Theory of Trusteeship, Gandhi tried to awaken the moral consciousness of prominent businesspeople, and he believed that this awakening could lead them to more responsible practices.¹⁵⁹ However, in current corporate decision-making, a collective disinclination to exercise moral preference shields corporate executives from the standards of conduct presented by Gandhi. The interests of the general population can never compete with the profit motive when net profit is the corporation's primary concern, regardless of whether shareholder or stakeholder theory is used to justify corporate behavior. Moreover, even within a stakeholder theory, it is unclear how corporate officials have any need to entertain *sarvodaya* (the welfare of all) or *ahimsa* (nonviolence), especially when U.S. courts use metaphors such as 'the corporate veil' to protect the most prominent businesspeople from external scrutiny.¹⁶⁰

Gandhi's Theory of Trusteeship plays virtually no role in American CSR discourse; however, the influence of his Theory in CSR discourse is greater

aparigraha. Anil Dutta Mishra, *Trusteeship: A New Economic Concept*, in 4 GANDHIAN ALTERNATIVE 197, 200 (New Delhi, Concept Publishing Co., V.K. Natraj, Kamlesh Misra & Neeru Kapoor eds., 2005). See also Raghavan Iyer, *Gandhian Trusteeship in Theory and Practice*, 7 GANDHI MARG 466 (Nov.-Dec. 1985).

¹⁵³ See generally Patel, *supra* note 75.

¹⁵⁴ See generally Patel, *supra* note 134, at 326–27.

¹⁵⁵ See generally Patel, *supra* note 75.

¹⁵⁶ See generally Patel, *supra* note 75; Mahatma Gandhi, *Letter to Narandas Gandhi* (Aug. 24/26, 1930), in 50 CWMG, *supra* note 63, at 5 ("A seeker after truth, a follower of the law of love, cannot hold anything against tomorrow.").

¹⁵⁷ See generally SURENDRA VERMA, METAPHYSICAL FOUNDATION OF MAHATMA GANDHI'S THOUGHT, ORIENT LONGMANS FOR THE GANDHI PEACE FOUNDATION (1970).

¹⁵⁸ See generally Patel, *supra* note 75.

¹⁵⁹ PAREKH, *supra* note 112, at 140–41.

¹⁶⁰ Nehal A. Patel & Ksenia Petlakh, *Gandhi's Nightmare: Bhopal and the Need For a Mindful Jurisprudence*, 30 HARV. J. ON RACIAL & ETHNIC JUST. 151, 160–62 (2014).

in India than in the U.S.¹⁶¹ Therefore, Indian CSR discourse seems to be an amenable environment in which Gandhi's Theory of Trusteeship can be furthered. Some wealthy Indian corporations already donate in part because of a pervasive Gandhian ethic.¹⁶² Gandhi stressed the role of businesspeople in curing social ills that the government proved ill-equipped to handle.¹⁶³ As recently as 2011, the Indian Ministry of Corporate Affairs (MCA) created 'Business Guidelines' that emphasize a historical connection in India between responsible commerce and society.¹⁶⁴ The MCA's proposal refers to a tradition of social welfare dating at least "from around 600 BC"¹⁶⁵ and recorded in past millennia "in the Mahabharata and the Arthashastra".¹⁶⁶ The Guidelines further state that "many of India's leading businessmen were influenced by Mahatma Gandhi and his theory of trusteeship of wealth"¹⁶⁷ In addition, R. Bandyopadhyay, secretary of the MCA, said that laws are not enough to create change, and an ethic of care is necessary among executives.¹⁶⁸ He claimed that business leaders are "custodians of public money, they are the trustees—if we go to the Mahatma Gandhi concept of trusteeship . . . they are actually the trustees of the nation."¹⁶⁹

Because Gandhi saw the modern idea of ownership as illusory, he expected corporations as well as real people to recognize the transience of wealth itself.¹⁷⁰ Therefore, rather than follow the illusion that anything could be "owned," a corporation ought to recognize that its resources are only

¹⁶¹ Afra Afsharipour, *Directors as Trustees of the Nation? India's Corporate Governance and Corporate Social Responsibility Reform Efforts*, 34 SEATTLE U. L. REV. 995, 1001–03 (2011). For further discussion of corporate governance in India, see generally Vikramaditya Khanna, *Corporate Governance in India: Past, Present and Future?*, 1 JINDAL GLOBAL L. REV. 171, 182 (2009); Bernard S. Black & Vikramaditya S. Khanna, *Can Corporate Governance Reforms Increase Firms' Market Value: Evidence from India*, 4 J. OF EMPIRICAL LEGAL STUD. 749 (2007) (cited in Afsharipour, *supra* note 161, at 16, n.40).

¹⁶² See generally Manoj K. Sharma, Punam Agarwal, Tarja Ketola, *Hindu Philosophy: Bridging Corporate Governance and CSR*, 20 HINDU PHIL. 299 (2009).

¹⁶³ Afsharipour, *supra* note 161, at 1001–03; "For example, the Tata Trusts, which controls 65.8% of the shares of Tata Sons, the holding company of the Tata Group conglomerate, regularly uses its income to support social causes." *Id.* at 997; see also Parekh, *supra* note 112, at 140–41.

¹⁶⁴ MINISTRY OF CORPORATE AFFAIRS, GOVERNMENT OF INDIA, NATIONAL VOLUNTARY GUIDELINES ON SOCIAL, ENVIRONMENTAL, & ECONOMIC RESPONSIBILITIES OF BUSINESS 1 (July 2011); see generally Afsharipour, *supra* note 161.

¹⁶⁵ MINISTRY OF CORPORATE AFFAIRS, GOVERNMENT OF INDIA, NATIONAL VOLUNTARY GUIDELINES ON SOCIAL, ENVIRONMENTAL, & ECONOMIC RESPONSIBILITIES OF BUSINESS 1 (July 2011).

¹⁶⁶ *Id.*

¹⁶⁷ *Id.*; see generally Afsharipour, *supra* note 161.

¹⁶⁸ See Jitendra Singh & R. Bandyopadhyay, *Corporate Affairs Secretary R. Bandyopadhyay: 'CSR Is Not Charity — It's a Win-Win Situation'*, INDIA KNOWLEDGE@WHARTON, June 17, 2010, available at <http://knowledge.wharton.upenn.edu/india/article.cfm?articleid=4488>.

¹⁶⁹ See Jitendra Singh & R. Bandyopadhyay, *Corporate Affairs Secretary R. Bandyopadhyay: 'CSR Is Not Charity — It's a Win-Win Situation'*, INDIA KNOWLEDGE@WHARTON, June 17, 2010, available at <http://knowledge.wharton.upenn.edu/india/article.cfm?articleid=4488>, quoted in Afsharipour, *supra* note 161, at 1012.

¹⁷⁰ See generally Nehal A. Patel, *Mindful Use: Gandhi's Non-Possessive Property Theory*, 13 SEATTLE J. SOC. JUST. 289 (2014); Patel, *supra* note 134; Patel & Petlakh, *supra* note 160.

under its control because society allows for temporary control.¹⁷¹ To Gandhi, this short-term control meant that corporations “borrowed” their right to control resources from society and nature, and therefore, corporations “owed a duty to use the wealth it possessed for the betterment of the society which provided it the opportunity to gain wealth in the first place.”¹⁷² In other words, it is sensible for local people to be dominant decision-makers in a sustainable economy because corporations control resources only by the consent of the society.

Gandhi's influence might explain why many scholars comment on the unique qualities of India's business ethic. A new study reported that “Indian companies disproportionately have social missions that are considered on par with profitability.”¹⁷³ One scholar noted that “Indian executives take pride in enterprise success—but also in family prosperity, regional advancement, and national renaissance. When asked about their priorities, Indian executives ranked investor interests below strategy, culture, or employees, much the inverse of what we usually hear from Western executives.”¹⁷⁴ In light of these findings, the potential for development of CSR along the lines of Gandhi's thought in India could exceed the potential for such development in the United States.

Gandhi's contribution to Indian CSR discourse is significant in its potential to alter the paradigms of modern business theory. Gandhi's Theory of Trusteeship and principle of *sarvodaya* (welfare of all) do not focus purely on how markets work, and as a result, Gandhi's principles do not treat market growth as a value in and of itself.¹⁷⁵ However, in contrast to some western scholars' portrayals,¹⁷⁶ Gandhi's principles are not necessarily “anti-business” or “pro-poverty.” Rather, Gandhi's principles support commerce within the context of how the business sector can improve the well-being of everyone involved.¹⁷⁷ As a result, many pre-existing economic theories are compatible with Gandhi's thought and can be used as

¹⁷¹ Patel, *supra* note 170; Patel, *supra* note 134; Patel & Petlakh, *supra* note 160.

¹⁷² See MEERA MITRA, IT'S ONLY BUSINESS! INDIA'S CORPORATE SOCIAL RESPONSIVENESS IN A GLOBALIZED WORLD 20 (2007).

¹⁷³ Afsharipour, *supra* note 161, at 1001–03.

¹⁷⁴ Michael Useem, *Chief Mentor: The India Way*, WALL ST. J., June 24, 2010, <http://blogs.wsj.com/indiarealtime/2010/06/24/chief-mentor-the-india-way>.

¹⁷⁵ Mahatma Gandhi, *Speech at Muir College Economic Society, Allahabad*, in 15 CWMG, *supra* note 63, at 277, quoted in Patel, *supra* note 134, at 331.

¹⁷⁶ See Niall Ferguson, *The 6 Killer Apps of Prosperity*, TEDGLOBAL, http://www.ted.com/talks/niall_ferguson_the_6_killer_apps_of_prosperity?language=en#t-723570 (depicting Gandhi's philosophy as one which would “institutionalize and make poverty permanent”).

¹⁷⁷ See generally Parekh, *supra* note 112; ANTHONY J. PAREL, GANDHI'S PHILOSOPHY AND THE QUEST FOR HARMONY, (Cambridge University Press 2006); see also Mahatma Gandhi, *Notes*, in 33 CWMG, *supra* note 63, at 135 (Seven Social Sins, according to Gandhi were: “wealth without work, pleasure without conscience, knowledge without character, science without humanity, commerce without morality, worship without sacrifice, politics without principles.”); M.K. GANDHI, THE QUINTESSENCE OF GANDHI IN HIS OWN WORDS 10 (Madhu Maskan Publications Private Ltd. 1984) (“No doubt, capital is lifeless, but not the capitalists who are amenable to conversion . . . I do not regard capital to be enemy of labor”).

a starting point for incorporating some of his economic principles. For instance, a broad view of stakeholder theory posits that corporations must consider the interests of all parties impacted by a pending decision.¹⁷⁸ Implicit in this broad view is the notion that corporate behavior can impact many parties, and that the impacted parties must raise their concerns for corporate behavior to ultimately enhance the social good. However, such a theory can be criticized for leading to a cacophony of voices, often with competing needs. In contrast, Gandhi's Theory of Trusteeship and principle of *sarvodaya* do not advocate for several self-interested voices providing input on a corporate decision. Rather, it is incumbent upon the corporation to actively identify stakeholders (including the environment), proactively seek their input (in the environment's case, via a guardian),¹⁷⁹ and anticipate all needs before they create violence and conflict. To avoid violence and conflict, all the parties involved must collectively and truthfully deliberate upon the broader consequences of the proposed corporate behavior before investment begins, not after the corporation already is collecting profit.

An example of corporate short-sightedness that foments conflict can be seen in Green Giant Corporation's move to Mexico. Green Giant argued that their presence brought more jobs to the area.¹⁸⁰ However, even though some villagers may have gained financially in the short-term, the water level in the village dropped considerably and the natural environment suffered considerable damage.¹⁸¹ As a result, despite the new employment, many villagers resented Green Giant's presence.¹⁸² A broad stakeholder theory would suggest more careful consideration of the interests of the villagers than Green Giant's narrow focus on financial gain and short-term employment. Similarly, applying *sarvodaya* and Gandhi's Theory of Trusteeship would prevent such narrow reasoning. Even if wealth (narrowly construed) increases in the village, the other long-term damages can render the short-term focus on jobs and economic growth futile.

Despite countless examples of poor transnational corporate planning, there are examples of CSR in practice, and some of them come from the largest corporations in the world. Currently, one of the world's largest corporations is the oil giant Royal Dutch Shell Corporation (Shell), as measured by total 2013 revenue (\$481.7 billion) and profit (\$26.6 billion).¹⁸³ Despite its titan status in the corporate world, Shell has made efforts to alter corporate behavior to further nonviolence. For instance, in Nigeria, Shell

¹⁷⁸ Fort & Schipani, *supra* note 36, at 426 (quoting Dunfee, *supra* note 42, at 139-43).

¹⁷⁹ See Christopher D. Stone, *Should Trees Have Standing? Toward Legal Rights for Natural Objects*, 45 S. CAL. L. REV. 450 (1972) (positing a guardianship theory for standing).

¹⁸⁰ Fort & Schipani, *supra* note 36, at 389.

¹⁸¹ *Id.*

¹⁸² *Id.*

¹⁸³ *Global 500*, FORTUNE MAGAZINE (last visited Aug. 1, 2014) <http://money.cnn.com/magazines/fortune/global500/index.html>.

recognized the unstable political environment in which it was extracting oil when bandits kidnapped Shell employees and gained wealth by collecting ransom from Shell for the employees' safe return.¹⁸⁴ As a result, Shell recently has implemented a collaborative protocol in Nigeria that seeks input from indigenous populations; in response to local concerns, Shell has expressed an intention to help remediate the damaged regions to "an internationally agreed environmentally acceptable condition."¹⁸⁵ However, despite Shell's stated intention, many local villagers are dissatisfied with the degradation of their region, which has been called "the most polluted place on earth."¹⁸⁶ Although Shell claims the degradation often is caused by the bandits, many villagers believe Shell has not properly managed its oil extraction processes and have sued Shell in a Dutch court.¹⁸⁷

Alcoa Corporation is another company known for its CSR efforts. Fortune magazine recently included Alcoa on its list of Most Admired Companies,¹⁸⁸ and Alcoa also recently made the Dow Jones Sustainability Index.¹⁸⁹ As a leader in aluminum manufacturing, Alcoa has been recognized largely for its sustainability efforts through consumer recycling awareness.¹⁹⁰ However, problems still persist. Alcoa touts its environmental restoration projects as showing leadership in voluntary stewardship, but the federal government on multiple occasions has been forced to order Alcoa to remediate Superfund sites.¹⁹¹ Also, the Environmental Protection Agency repeatedly has charged Alcoa with Clear Air Act violations over a decade,¹⁹² and Alcoa recently has been sued by

¹⁸⁴ Breane Coble, *Shell's Corporate Social Responsibility in the Niger Delta*, INASP (Aug. 18, 2015), http://www.inasp.info/uploads/filer_public/2013/04/03/3_handout_4.pdf.

¹⁸⁵ *Id.*

¹⁸⁶ Nnimmo Bassey, *The Niger Delta Environment and the Nigerian State [1]*, BAILIFF AFRICA: THE VOICE OF GREEN AFRICA (Jan. 29, 2014) <http://www.bailiffafrica.org/the-niger-delta-environment-and-the-nigerian-state-1-by-nnimmo-bassey/>; Nnimmo Bassey, *Why Shell Must be Held Accountable for its Niger Delta Ecocide*, EQUAL TIMES, Jan. 29, 2013, <http://www.equaltimes.org/why-shell-must-be-held-accountable-for-its-niger-delta-ecocide?lang=en>, quoted in Jon Queally, *Dutch Court Delivers Blow to Nigerians with Shell Acquittals*, COMMON DREAMS (Jan. 30, 2013), <http://www.commondreams.org/news/2013/01/30/dutch-court-delivers-blow-nigerians-shell-acquittals>.

¹⁸⁷ Queally, *supra* note 186. See also LAMBOUY ET AL., *supra* note 129, at 441–48.

¹⁸⁸ *Alcoa Named Fortune's Most Admired Metals Company in the World for Fourth Year in a Row*, ALCOA (Feb. 19, 2015), http://www.alcoa.com/global/en/news/news_detail.asp?pageID=20150219000259en&newsYear=2015.

¹⁸⁹ *Alcoa Named Sustainability Leader on Dow Jones World Index for Safest, Most Environmentally-Efficient Year on Record*, ALCOA (Sep. 11, 2014), http://www.alcoa.com/global/en/news/news_detail.asp?pageID=20140911000224en&newsYear=2014.

¹⁹⁰ *Closing the Material Loop*, ALCOA (Aug. 29, 2015), http://www.alcoa.com/sustainability/en/info_page/recycling.asp.

¹⁹¹ *Aluminum Company of America, Massena, NY: Record of Decision*, U.S. ENVTL. PROT. AGENCY (Apr. 2013), <http://www.epa.gov/region02/superfund/npl/aluminumcompany/>.

¹⁹² *Alcoa, Inc. Clean Air Act Settlement*, U.S. ENVTL. PROT. AGENCY (Apr. 9, 2003), <http://www2.epa.gov/enforcement/alcoa-inc-clean-air-act-settlement>.

employees who claim they have been exposed to carcinogens without notice.¹⁹³

The conduct of Shell and Alcoa may not exemplify Gandhi's ideal of using all wealth purely for the welfare of all, but the actions of these two corporate giants have received considerable attention and could shift the CSR discourse toward finding the corporation's role in reducing rather than fomenting violence and political unrest. Modern CSR standards, however, still barely scratch the service of what is needed to achieve *swadeshi*. There continues to be a huge gap between CSR expectations in the business community and the affected stakeholders. This is evidenced by the fact that employees and local stakeholders continue to file lawsuits against corporations while the business community heralds the same corporations for their CSR efforts.¹⁹⁴ In the next section, I explore the implications of corporate-local tensions on Bhopal and address whether the modern corporation can be transformed into an organization that fills the gap between its own interests and *sarvodaya*.

III. A NEW CSR?: SOLUTIONS BASED ON *SWADESHI*

There are several calls in academic literature for an end to corporate violence through CSR reforms, but the scholarship has not gone deeply enough into the thought sub-structure that animates modern business. The CSR discourse must engage with the underlying assumptions that buttress modern notions of 'progress,' and Gandhi's thought provides this opportunity. In Gandhi's economics, material considerations are tempered by people's non-material needs.¹⁹⁵ He said, "True economics stands for social justice; it promotes the good of all equally, including the weakest and is indispensable for a decent life."¹⁹⁶ Thirty years later in the United States, Martin Luther King, Jr. called on American intellectuals to follow a just economics:

I am convinced that if we are to get on the right side of the world revolution, we as a nation must undergo a radical revolution of values. We must rapidly begin the shift from a "thing-oriented" society to a "person-oriented" society. When machines and computers, profit motives and property rights are considered more important than people, the giant triplets

¹⁹³ Christine MacDonald, *Alcoa and Corporate Social Responsibility — Rhetoric vs. Reality*, PAC. STANDARD, Jun. 27, 2011, <http://www.psmag.com/business-economics/alcoa-and-corporate-social-responsibility-%E2%80%94-rhetoric-vs-reality-32617>.

¹⁹⁴ *Id.* See also LAMBOOY ET AL., *supra* note 129, at 336–48.

¹⁹⁵ See Mohandas K. Gandhi, *Primary Education in Bombay*, HARIJAN, Oct. 9, 1937, at 292; see also Weber, *supra* note 98, at 139.

¹⁹⁶ *Id.*

of racism, materialism, and militarism are incapable of being conquered. A true revolution of values will soon cause us to question the fairness and justice of many of our past and present policies.¹⁹⁷

King and Gandhi's calls for ethical consideration make our current economic distinctions between "self-interest" and "selfishness" seem flimsy and arbitrary. To King and Gandhi, there was no distinction between "self-interest" and "selfishness" in modern economic thought if the tortured use of 'self-interest' functioned to exploit oppressed subjects.¹⁹⁸ Therefore, to Gandhi and King, the conceptualization and use of 'self-interest' in modern economic practice was in need of serious correction in order to achieve the economy's proper function of providing for all (*sarvodaya*) and maximizing self-sufficiency (*swadeshi*).¹⁹⁹

In our current economy, the creation and regulation of modern technologies present one of the greatest challenges to reconciling corporate self-interest with world-interest. In one of his most prophetic passages, Gandhi emphasized that the importance of his critique of industrialization was not to reject machinery per se.²⁰⁰ Rather, any technological invention should be valued for its ability to add to human efficiency without depriving people of the opportunity to secure dignified labor.²⁰¹ He could have been speaking of Union Carbide's plant in Bhopal when he wrote the following passage:

I should not care for the asphyxiating gases capable of killing masses of men at a time . . . I can have no consideration of machinery which is meant either to enrich the few at the expense of the many, or without cause to displace the useful labour of many.²⁰²

In this passage, Gandhi emphasized the freedom to choose one's labor and the ability to determine one's own destiny. Machines were justifiable only to the point "just where they cease to help the individual and encroach upon his individuality."²⁰³ He added, "Should man lose his control over the machines and allow them to control him,"²⁰⁴ machinery "will certainly

¹⁹⁷ MARTIN LUTHER KING, JR., *A TESTAMENT OF HOPE: THE ESSENTIAL WRITINGS AND SPEECHES OF MARTIN LUTHER KING, JR.* 240 (James Melvin Washington ed., 1991), *quoted in* William P. Quigley, *Letter to a Law Student Interested in Social Justice*, 1 DEPAUL J. SOC. JUST. 1, 14 (2007).

¹⁹⁸ *Id.* See generally Patel, *supra* note 134.

¹⁹⁹ See generally Patel, *supra* note 134.

²⁰⁰ 67 CWMG, *supra* note 63, at 184, *quoted in* Weber, *supra* note 98, at 146.

²⁰¹ *Id.*

²⁰² *Id.*

²⁰³ 29 CWMG, *supra* note 63, at 270; see also Weber, *supra* note 98, at 147.

²⁰⁴ 54 CWMG, *supra* note 63, at 216, *Id.*

engulf civilization and everything.”²⁰⁵ The way to avoid this outcome was to assure that labor only worked “under the most attractive and ideal conditions, not for profit, but for the benefit of humanity, love taking the place of greed as the motive.”²⁰⁶ In Gandhi’s words, “It is an alteration in the condition of labour that I want.”²⁰⁷

In his attempt to alter conditions, Gandhi envisioned a practical economics rooted in *sarvodaya* and comprised of small-scale village production through the practice of *swadeshi*.²⁰⁸ In Gandhi’s view, people’s material well-being could not be conceptually separated from their well-being in every other sense.²⁰⁹ Therefore, the freedom of self-determination (*swaraj*) and self-sufficiency (*swadeshi*) was part and parcel of the welfare of all (*sarvodaya*). In contrast, an approach solely focused on material goods would lead people into falsely thinking that purely material measures, such as GDP, defined society’s well-being.

In business and academic thought, perhaps the most disturbing modern tendency is the relentless insistence that economic calculations have a “value-free” basis.²¹⁰ Gandhi argued that economic models and theory always involve value judgments regardless of whether businesspeople or academics choose to acknowledge them; in other words, ignoring ethical consideration is itself a normative judgment.²¹¹ Ironically, a person who claims to be “value-neutral” will not see his own value judgments, and yet, this mentality has embedded itself into the dominant economic and business communities globally.

Gandhi intuitively recognized the shortcoming of this supposedly “valueless” thinking in modern economic thought. His life was an effort to re-connect economics to ethics, and to illustrate the beauty that comes from the recognition that the various dimensions of life mutually sustain each other.²¹² Gandhi’s core principles of *ahimsa*, *swaraj*, *sarvodaya*, and *swadeshi* provide a cohesive and comprehensive alternative to the oversimplified and deeply flawed notion that today’s obsessive self-interest somehow produces common good.

Perhaps the most enduring characteristic of the Bhopal disaster is the fact that its legacy continues to be shaped thirty years later. Litigations have

²⁰⁵ *Id.*

²⁰⁶ *Id.*

²⁰⁷ 29 CWMG, *supra* note 63, at 266.

²⁰⁸ Gandhi presented a practical ideal for which to strive rather than recommending a series of policy implementations. Weber, *supra* note 98, at 148 (crediting Ajit K. Dasgupta).

²⁰⁹ See Gandhi, *supra* note 195, quoted in Weber, *supra* note 98, at 139.

²¹⁰ See generally FORT & SCHIPANI, *supra* note 36, at 426, 844 n.65). See also Anderson & Cavanagh, *supra* note 36, at 12, quoted in KATE DAVIES, *supra* note 36, at 211 n.1.

²¹¹ See generally Dasgupta, *supra* note 60.

²¹² See Patel, *supra* note 134.

not ceased, the site of the plant never has been cleaned, and most importantly, people continue to suffer.²¹³ As Shrivastava states:

The tragedy of Bhopal suggests, in sum, the need for a radical reorientation in worldwide thinking about the causes and prevention of industrial crises Our challenge as scholars, policy makers, and citizens is to draw from industrial crises some genuinely new lessons about the future: to articulate actionable principles, to develop new economic and social policies, and to re-envision the relationship between humans and nature in ways that can prevent more Bhopals on our only too fragile planet.²¹⁴

Gandhi's thought contains a comprehensive vision for such a "radical reorientation," and he dedicated his life to showing that his core principles were actionable. When asked about explicating a science of *ahimsa*, Gandhi replied, "Action is my domain The world does not hunger for Shastras [treatises]. What it craves, and will always crave, is sincere action."²¹⁵ A *swadeshi*-based corporate social responsibility can create a framework to avert future corporate violence. Therefore, Gandhi's principle of *swadeshi* must be a core doctrine of any serious CSR discourse, and *ahimsa*, *sarvodaya*, and *swaraj* must be operating principles for a world that has genuine dignity for all.

²¹³ See generally DOMINIQUE LAPIERRE & JAVIER MORO, FIVE PAST MIDNIGHT IN BHOPAL: THE EPIC STORY OF THE WORLD'S DEADLIEST INDUSTRIAL DISASTER (Hachette Digital 2009); ALFRED DEGRAZIA, A CLOUD OVER BHOPAL: CAUSES, CONSEQUENCES, AND CONSTRUCTIVE SOLUTIONS (Kalos Foundation for the India-America Committee for the Bhopal Victims 1985); LARRY EVEREST, BEHIND THE POISON CLOUD: UNION CARBIDE'S BHOPAL MASSACRE (Banner Press 1986); DAN KURZMAN, A KILLING WIND: INSIDE UNION CARBIDE AND THE BHOPAL CATASTROPHE (McGraw-Hill 1987); WARD MOREHOUSE & M. ARUN SUBRAMANIAM, THE BHOPAL TRAGEDY: WHAT REALLY HAPPENED AND WHAT IT MEANS FOR AMERICAN WORKERS AND COMMUNITIES AT RISK (Council on International and Public Affairs 1986); PAUL SHRIVASTAVA, BHOPAL: ANATOMY OF A CRISIS (Paul Chapman Publishing, 2d ed. 1992); PAUL SHRIVASTAVA, MANAGING INDUSTRIAL CRISES: LESSONS OF BHOPAL (Vision Books 1987); EKLAVYA, BHOPAL: A PEOPLE'S VIEW OF DEATH (Bhopal, India 1985); Patel & Petlakh, *supra* note 160.

²¹⁴ Paul Shrivastava, *Societal Contradictions and Industrial Crises*, in LEARNING FROM DISASTER: RISK MANAGEMENT AFTER BHOPAL 265-66 (Sheila Jasanoff, ed., 1994) (the needed changes "require a complete *reversioning of our current cosmologies or worldviews*") (emphasis in original); see generally Robert Costanza, Ralph d'Arge, Rudolf de Groot et al., *The Value of All Goods & Services Giving by the Earth is \$33 Trillion USD*, 387 NATURE 253, 253-60 (1997) (This number is greater than the global GDP (value of traded goods & services worldwide), cited in DAVIES, *supra* note 36, at 211-212. For case law examples from environmental law, see generally *Lujan v. Defenders of Wildlife*, 504 U.S. 555, 565 (1992); *Mich. Citizens for Water Conservation v. Nestlé Waters N. Am., Inc.*, 737 N.W.2d 447 (Mich. 2007), *overruled by* *Lansing Sch. Educ. Ass'n v. Lansing Bd. of Educ.*, 792 N.W.2d 686 (Mich. 2010) & *United States of America v. Michael H. Weitzenhoff*, 35 F.3d 1275 (9th Cir.1993).

²¹⁵ Mohandas K. Gandhi, *Two Requests*, in 90 CWMG, *supra* note 63, at 1.

When asked what his message was for the world, Gandhi once elegantly replied, “My life is my message.”²¹⁶ His entire adult life was his experiment with how an individual and a community can live non-violently with others and with nature. Part of Gandhi’s genius was his view of the world and all its parts as comprising a family.²¹⁷ Therefore, in Gandhi’s thought, the corporation could be an institution within the global family, and the modern corporation’s lack of fit within Gandhi’s family model should be a call to recreate modern business practices to fit the vision of a global family. Existing dominant models arguably can provide short-term material gains, but the risks to the global commons have reached proportions too potentially catastrophic to dismiss. Gandhi seemed aware of this danger a century ago, and the horror of Bhopal serves as reminder of the relevance of *swadeshi* and *sarvodaya* to modern business. American CSR discourse can continue to ignore Gandhi’s existential challenge to fundamental assumptions of modern economic and business discourse, but as Martin Luther King once said of Gandhi, “[i]f humanity is to progress, Gandhi is inescapable. He lived, thought, and acted, inspired by the vision of humanity evolving toward a world of peace and harmony. We may ignore him at our own risk.”²¹⁸

²¹⁶ EKNATH EASWARAN, *GANDHI THE MAN: HOW ONE MAN CHANGED HIMSELF TO CHANGE THE WORLD* 166, (Nilgiri Press 2011).

²¹⁷ Gandhi, *supra* note 177, at 48 (“For a non-violent person, the whole world is one family. He will thus fear none, nor will others fear him.”).

²¹⁸ MARTIN LUTHER KING, JR., AND CORETTA SCOTT KING, *THE WORDS OF MARTIN LUTHER KING, JR.* 71 (Newmarket Press 1992), *quoted in*, Martin Luther King, Jr., *Gandhi’s Birthday: Dr. King’s Tributes to Mahatma*, THE KING CENTER (Oct. 2, 2012), <http://www.thekingcenter.org/news/2012-10-gandhis-birthday-dr-kings-tributes-mahatma>.